UBrew/UVin Licence

TERMS and CONDITIONS

A GUIDE FOR LIQUOR LICENSEES IN BRITISH COLUMBIA

June 2007

BRITISH COLUMBIA
The Best Place on Earth

Ministry of
Public Safety
and Solicitor General

This guide . . .

provides essential information for anyone holding a UBrew/UVin licence (provide customers with the ingredients, equipment and advice they need to make their own beer, wine, cider or coolers). This information does not apply to all licence classes.

Separate guides are available for those holding food-primary, liquor-primary, licensee retail store, brewery, distillery and winery licences.

You can request copies of the other guides by contacting us or downloading them from the Liquor Control and Licensing Branch Web site:

Phone (toll free): **1 866 209 2111**
E-mail: **lclb.lclb@gov.bc.ca**
Web site: **www.pssg.gov.bc.ca/lclb**

UBrew/UVin Licence
Terms and Conditions
A GUIDE FOR LIQUOR LICENSEES
IN BRITISH COLUMBIA

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Introduction

This Guide

This guide outlines the requirements of the Liquor Control and Licensing Act and Regulations for operating UBrew or UVin stores. It also imposes further terms and conditions, in addition to those found in the Liquor Control and Licensing Act and Regulations.*

Like the requirements contained in the Act and Regulations, these additional terms and conditions – and any further terms and conditions that might be printed on the face of your licence or contained in letters issued to you by the general manager of the Liquor Control and Licensing Branch – must be followed at all times.

Important!
Please take time to read this guide carefully and make sure your managers and staff are familiar with the information presented here, and with any additional terms and conditions printed on the face of your licence and/or in letters issued by the Liquor Control and Licensing Branch.

As a licensee, it is your responsibility to operate your business so that it complies with the law and with the terms and conditions of your licence.

*Section 12.1 of the Liquor Control and Licensing Act provides the general manager with the authority to impose, in the public interest, terms and conditions on licences.

Definitions Used in This Guide

"The Act" means the Liquor Control and Licensing Act, the provincial legislation that guides the licensing of establishments that manufacture, store or sell liquor in B.C.

Please note:
Wherever definitions, words or expressions used in this guide differ from the wording of the Liquor Control and Licensing Act and Regulations, the legislation will prevail.

"The branch" means the Liquor Control and Licensing Branch, the government agency that administers the Act.

"The general manager" means the general manager of the Liquor Control and Licensing Branch.

"Licensee" refers to any individual, individuals, corporate body or society that holds a British Columbia liquor licence.

"Manufacturer" means a manufacturer of liquor products (i.e., beer, wine, spirits, cider and coolers) or the corporate official of a liquor manufacturer.

"Terms and conditions of licence" are requirements of licensees that are set by legislation, regulation or branch policy. All terms and conditions must be followed. Not following them may result in enforcement action.

"UBrew/ UVin" is a licensed business that provides its customers with the ingredients, equipment and advice they need to make their own beer, wine, cider or coolers for their own private consumption, away from the UBrew/UVin premises.

Updates

Licence terms and conditions change from time to time. We will send out revisions to this guide periodically. In addition, an up-to-date copy is always available on the branch web site: **www.pssg.gov.bc.ca/lclb**.

Help is Available

We know how difficult it can be to operate a licensed establishment, and understand the challenges you may face in consistently following BC's liquor laws. You should always feel free to discuss potential enforcement problems with a liquor inspector or another branch employee.

If you have any concerns or questions, please contact your local liquor inspector or write, telephone or email the Liquor Control and Licensing Branch at:

Mailing address:
PO Box 9292 Stn Prov Govt,
Victoria, BC V8W 9J8

Office address:
2nd Floor, 1019 Wharf St.,
Victoria, BC V8W 2Y9

Email:
lclb.lclb@gov.bc.ca

Phone:
250 387-1254 in Victoria

Toll free Phone:
1-866-209-2111

Our web site also contains a range of helpful information along with licensee guides, application forms and links to the Liquor Control and Licensing Act and Regulations.

Web site:
www.pssg.gov.bc.ca/lclb

Background: Who is Responsible for What

The Liquor Control and Licensing Branch

The Liquor Control and Licensing Branch is responsible for regulating and monitoring the manufacture and sale of liquor in licensed establishments in British Columbia, and for protecting the public from the harm that may be caused by making and selling liquor or products that contain liquor.

The branch issues liquor licences, and supervises the activities of all liquor licensees in British Columbia to make sure they are following the rules laid out in the Liquor Control and Licensing Act, its regulations, and their licence terms and conditions.

To make sure the public has full access to information about liquor licensees in this province, we post, on our branch web site, summaries of all cases where a liquor inspector has recommended enforcement action. For those cases that go to an enforcement hearing, we post the complete text of the decision. (Names of individuals have been removed to comply with the requirements of the Freedom of Information and Protection of Privacy Act.)

Your Role As a Licensee

As a licensee (someone who holds a liquor licence), you are legally responsible for understanding how the Act, its regulations, and the other terms and conditions of your licence affect the operation of your establishment. You are also responsible for complying with (obeying or following) the Act, its regulations, and all the terms and conditions of your licence.

The term licensee covers both the licensee of record and any person acting in the place of the licensee, such as a manager or person in charge of an establishment in the licensee's absence, and staff working in the establishment. You are therefore responsible for making sure your employees follow BC's liquor laws and the terms and conditions of your licence, even when you are not on site.

In addition, you must let the branch know about any changes you make to your business. You must cooperate with liquor inspectors and police, and ensure that the actions of you and your staff do not put liquor inspectors or police at risk or prevent them from carrying out their duties.

If you do not carry out your legal responsibilities, you could face serious penalties, including the suspension or loss of your licence.

The Role of the Liquor Inspector

Liquor Control and Licensing Branch liquor inspectors are located in regional offices across the province. They may make unannounced visits to your UBrew/UVin at any time to:

- explain the terms and conditions of your licence
- inspect your legal, financial and business records
- observe and record your business practices, identifying gaps or weaknesses that are likely to lead to non-compliance, and
- identify any contraventions of the Act, regulations or the terms and conditions of the licence occurring in your establishment.

If a liquor inspector finds a licensee is contravening (not following) the Act, its regulations or the licence terms and conditions, the inspector will issue a contravention notice and may recommend enforcement action. (Please see the later sections of this guide for more on inspections and enforcement.)

Please note:
Liquor inspectors are a good resource. They can provide you with both help and advice, and we recommend you get to know your local liquor inspector as soon as possible.

The Role of Police

Police officers may also make unannounced visits to your UBrew/UVin at any time.

When the police walk through your establishment, they will look for evidence of any liquor contraventions, especially those that could result in disturbances within the community or that could threaten public safety, such as minors in possession of alcohol. If the police notice a contravention, they will record it on a form called a Licensed Premises Check (LPC), leave one copy with you and send one to the Liquor Control and Licensing Branch.

The branch follows up on all LPCs, and may ask a liquor inspector to conduct a further inspection. If the inspector confirms the contravention, he or she will issue a Contravention Notice and may recommend enforcement action.

The Role of Local Government and First Nations

A liquor licence is only one requirement in opening a licensed establishment in British Columbia. Liquor licensees must also deal with local governments on such issues as zoning, building bylaws, business licensing requirements and health and fire regulations.

Local governments are responsible for protecting the peace and good order of their communities and are often the first to learn about problems relating to licensed establishments. The general manager takes complaints from local governments that licensed establishments are operating contrary to the public interest and are disturbing people in the surrounding area very seriously.

Managing Your Business

Posting Your Licence

You must post your liquor licence certificate in a prominent location in the licensed area to ensure it is immediately available for review by liquor inspectors and police.

Renewing Your Licence

You must renew your licence each year by March 31st, and pay an annual licence fee. The annual fee for a UBrew/UVin liquor licence is $750.

Providing Information to the Branch

You must be forthright in providing information to the branch. Making a misleading statement or failing to disclose a material fact (such as the fact that a third party is using your licence, that shares have been transferred or that the lease on your property is about to run out) are licensing contraventions.

Keeping Records

As a UBrew/UVin licensee, you must:

- maintain records of all ingredients purchased for use in the production of beer, wine, cider and coolers in your establishment
- maintain records of all sales, invoices and customer declaration forms (see the section on Customer Responsibilities for more about declarations)
- keep a record of the volume of beer, wine, cider and wine coolers produced in your facility in the preceding twelve-month period. You will have to provide this information to the branch when you renew your licence each year.
- keep all records for a period of three years (prior to the current business year), and make them available upon request to branch staff or a person designated by the branch.

Making Changes to Your Liquor Licence

The details of your liquor licence application – who you are, the location of your UBrew/UVin, etc. – are critical factors in the decision to grant a licence.

Any changes you intend to make to these factors after your licence is granted must be approved by the branch before you make the changes. (Please see Appendix 2 for detailed information about making changes to your licence.)

Selling Your Store and Transferring Your Licence to a New Owner

If you wish to sell your store and transfer your licence to a new owner, the new owner will need to complete the Application for a UBrew/UVin Licence form (available from the branch web site), and attach the appropriate documentation. The application form explains the documentation and/or approvals required.

As the current licensee, you will need to sign the Agreement to Transfer Licence(s) section of that form — this is where you officially agree that when the general manager approves the transfer application, you will relinquish all claims to your licence(s). You also acknowledge that you will continue to be held responsible for any contraventions that occur until the transfer is approved.

The general manager may decide not to approve a licence transfer if the branch is in the process of taking enforcement action against you as the current licensee, or if you have not paid a monetary penalty or served a suspension notice.

Hours of Sale

Your UBrew/UVin may be open to the public between the hours of 9:00 am and 11:00 pm.

Minors

Minors are allowed in the retail part of your UBrew/UVin unless you choose to set a house policy that prohibits the entry of minors into your establishment.

You may employ minors in your store provided they are under your ongoing supervision or the supervision of an adult employee and are not left alone in charge of the establishment.

Except for minors who are employees, minors are not permitted in the areas of your store where liquor is manufactured or stored unless accompanied by a parent or guardian, and may not manufacture liquor at your store or assist a parent or guardian in the production process.

ID Requirements

You must demonstrate that you are preventing minors from obtaining liquor. When verifying a customer's age, you and your employees must ask for **two** pieces of identification. The first piece of identification must:

- be issued by a government agency (e.g. a passport or driver's licence), and
- include the person's name, signature, birth date and picture.

The second piece must:

- include an imprint of the holder's name (e.g. a credit card, Care Card), and
- include the person's signature and/or picture.

If the person cannot produce two pieces of acceptable identification that proves they are 19 or older, you must not allow the customer to enter into a contract to manufacture alcohol products in your store.

You must cooperate with a liquor inspector if the inspector asks you or your staff to determine whether a person is a minor.

You are encouraged (but not required) to retain identification that is clearly false and to turn it over to your liquor inspector. Where possible, the inspector will return the identification to the agency that issued it. (If the patron insists you return the ID, you should do so, but we encourage you take a photocopy of it first to give to your liquor inspector.)

To verify identification, ask the person for:

- A sample signature to compare to the signature on the photo identification.
- His or her zodiac sign – people with false identification often will be unable to answer quickly.
- His or her middle name and how to spell it.
- Information that is on the identification, such as the person's address or postal code.

Relations With Liquor Manufacturers and Agents

You must not be financially associated in any way with a liquor manufacturer, licensed agent or licensed establishment (bar, pub, restaurant, etc.) in British Columbia.

Customer Responsibilities

First Visit

At the first visit to your UBrew/UVin, each customer must:

- Pay for all of the ingredients prior to starting the manufacturing process. At a minimum, the payment must be for the cost of the ingredients as this is a necessary step to transfer ownership of the product from you to your customer. You may, if you wish, require payment of the service fee at this time or wait until the product is to be bottled. If the customer brings his or her own ingredients into your establishment, you must require payment of the service fee before beginning the manufacturing process.

- Sign a declaration saying that he or she is using the product for personal use or for use at no charge by others, such as friends and family. The declaration should be printed either on the invoice or on a separate piece of paper attached to the invoice and should be of a font size clearly legible by your customers, with a typeface at least 11 pt. or larger. You must retain the declaration for audit purposes.

Sample Declaration:

I, _____ on this date_____ have purchased the ingredients and started the fermentation in order to produce this product for my own personal use or by others at no charge.

I will not resell this product nor provide it for use at a liquor-licensed event, including that held under a special occasion licence.

- Add the ingredients necessary to start the fermentation process. The degree of customer involvement will vary depending on the type of product being manufactured and the form it takes. For example:

  - **Beer/Wine/Cider kits:** The customer must pour the juice/concentrate into the fermentation vessel and add water (if required), yeast and any other necessary ingredients to the fermentation vessel.
  - **Juice barrels:** The customer must add the yeast and any other necessary ingredients to the barrel.
  - **Beer in kettles:** The customer must add the necessary ingredients (hops and malt extract) to the water in the kettle, let it cook and add yeast.
  - **Pre-made wort under Federal Wort Licence:** The customer must add yeast to the wort (which is prepared by you).
  - **Commercially available pre-packaged wort kits:** Same as for beer/wine/cider kits.

Second Visit

At the second visit to your UBrew/UVin, each customer must:

- Wash and sterilize bottles. (This step can be performed off-site as well.)

- Remove or deface any commercial winery or brewery labels on bottles. Defacing must include, at a minimum, putting a clearly visible and permanent dark felt pen marking across the label.

Please Note:

The term "bottle" refers to any container, including a keg.

There are no restrictions on the size, sale or rental of bottles / containers. Customers may bring their own bottles / containers or buy / rent from you.

- Bottle and seal the product started in the customer's first visit.

- Affix labels or other decorative items to bottles, if any.

- Remove the product from your UBrew/UVin store immediately after bottling. Bottled product may not be left on the premises for any reason, and you are not permitted to deliver a customer's beer, wine, cider or coolers.

Outside Assistance

The customer may ask for help during the production process from someone not associated with you or your staff (friends and family of legal age, for example, may accompany the customer to help him or her complete the required steps).

If the customer is physically incapable of safely performing some of the steps outlined below, you may provide greater assistance. However, we recommend that you tell the customer to bring a friend or family member to help next time.

Your Responsibilities

After a Customer's First Visit

Your main responsibility in the production process is to ensure that your customers fulfil their responsibilities.

After a customer has completed his or her first visit, you may oversee the fermentation, filtration, racking and aging of the product and get it ready for bottling. (Your customers do not have to be involved in these steps, although they may be if you wish.)

Assistance

You or your staff may help a customer by:

- holding the fermentation vessel while the customer pours in the ingredients
- transferring the wort to the fermentation vessel
- demonstrating the bottling mechanism and process by filling one bottle for the customer
- demonstrating the corking/capping mechanism and process by corking/capping one bottle for the customer
- demonstrating the labelling and shrink-topping procedures by labelling and shrink-topping one bottle for the customer
- handing empty bottles to the customer while he or she fills the bottles
- placing the filled bottles in cases
- carrying the bottled product to the customer's vehicle.

Invoices

At the time of a customer's first payment, at his or her first visit, you must provide the customer with an invoice and retain a copy for audit and inspection purposes. The invoice must include:

- the customer's name and telephone number
- the type and quantity of beer, wine, cider or coolers to be made
- the date and the amount of payment received from the customer, and
- the name, address and telephone number of your establishment.

Carboy Tags

You must attach a carboy tag or label to every carboy, fermentation vessel and barrel that clearly states the customer's real name (not an alias such as "Champagne Charlie"), date that the product was started, and customer invoice number. You may also choose to include racking dates on the carboy tag.

Barrel Aging

You may offer a barrel-aging service within your UBrew/UVin where more than one customer's product is placed in a barrel for aging after fermentation.

When you empty the barrel, you must pour the product back into carboys, and the customers must then return to the facility and complete all of the remaining steps such as bottling.

You must also affix to the barrel the carboy tags of every customer whose product is stored in that barrel.

Topping Up

Because some wine may be lost during the racking process, some UVin operators in the past have "topped up" "a customer's wine (added wine that was not made by the customer to a customer's carboy).

This practice is not permitted. It puts you in the position of being an unlicensed manufacturer, and is not required to produce wine.

You may top up a customer's product with a non-alcoholic substance such as water, or the customer may bring his or her own wine to top up his or her own product (the customer may not leave the wine for you to add at some later point).

The wine used by a customer for topping up can be product made previously at a UVin by the customer or commercially produced wine.

Fortifying Port and Sherry

A customer may add distilled alcohol (brandy or vodka, for example) purchased from a liquor store to port and sherry being made at your store immediately prior to bottling.

You may not provide the distilled alcohol, and the customer may not leave it on-site for you or your staff to add to the product.

Customer Sampling

Customers may sample their own product prior to bottling to ensure taste acceptability.

Each customer may have up to two samples, each not exceeding 100ml or approximately three ounces per batch (200ml is the maximum sample per batch, regardless of the number of persons making the batch).

It is your responsibility to ensure that customers do not consume quantities greater than this amount.

Public Sampling

Because you are not a licensed liquor manufacturer, you may not provide samples of finished product to the public either within your establishment or elsewhere. (This restriction does not apply to the normal exchange or giving of product to friends or family outside your store in a social setting devoid of commercial considerations or intent.)

You may not permit sampling parties in your establishment where kit manufacturers or others – including customers – provide finished product to the public.

Trading Racks and Product Exchange

"Trading racks" – where a customer leaves some of his or her product in the licensed establishment after bottling and takes another customer's product left behind in exchange – are not permitted. (You are not allowed to store bottled product on-site.)

You also may not organise, post, or permit to be posted in your establishment any notices or lists that encourage product trading among your customers or which provide an opportunity for customers to place their names and telephone numbers on a trading list.

You may display a sign-up board or similar device where customers interested in manufacturing a particular product can contact other interested persons to start and share a batch.

Group Batches

If a group of people want to produce liquor together, the group may either split a single batch or more than one person may make several batches.

In either case, all of the customers who will take ownership of the product must:

- visit your store and be involved in all the "first visit" steps of the production process
- have their names stated on the invoice, and
- sign a declaration.

(Without these steps, the customer or customers making the product would be in the position of illegally selling finished liquor.)

At least one member of the group must return to bottle the product. After bottling, the members of the group may divide the product among themselves while on-site.

Groups may not enter into a co-operative or club arrangement whereby members bottle and take away product that was started by other members of the cooperative or club.

You may not invite customers to participate in a group batch organized by your establishment.

Employee Batches

You and your staff may make beer, wine, cider or coolers on-site for your own consumption, provided:

- you prepare an invoice (even if there is no charge) and keep a record of the production
- your carboy tags are visually different (a different colour, for example) from those of your regular customers
- you make your product during the normal licensing hours of 9:00 am to 11:00 pm (you may, however, make your own product within these hours even if the store is not open to the public)
- you do not consume your product on-site (beyond the tasting limits outlined in this guide), and
- once bottled, you remove the product from the premises.

Unclaimed Product

If a customer does not return to your facility to bottle and remove the product he or she has made, you must make a reasonable attempt to contact the customer. If, after a reasonable interval, you still cannot reach the customer, you may destroy the product.

Customer Returns

If a customer returns product that is not satisfactory, you may provide the customer with the opportunity to make a free or discounted batch of product, provided:

- the customer repeats all of the required production steps
- you prepare an invoice (even if there is no charge) and keep record of the production
- the customer signs a new declaration
- you affix a carboy tag to the fermentation vessel, and
- you or your staff destroy the unsatisfactory product.

You may not, under any circumstances, provide the customer with finished product that the customer did not produce to replace a batch that the customer returned.

Storage

You must store all product on site. The federal Excise Act does not allow you to operate a secondary storage site.

Advertising and Promoting Your Business

What You May Advertise

You may advertise:

- the name and location of your store
- your liquor licence category
- your hours of operation
- the products and services that you sell, including kits, juices, ingredients and assistance in making the product.

Your ads may also show people making liquor in your establishment, include pictures of your facility and indicate your prices – for example:

- "make your own wine – special this week: kit only $60.00, service charge only $20.00"
- "wine kits on sale: $50.00," or
- "make 50 litres of beer for $50 bucks."

Your ads may not:

- mention or imply the availability of liquor (finished product) for sale
- show people drinking, or appearing to drink, liquor
- provide the price of the finished product, either per batch or per bottle and imply that the customer has no role in making the product – for example:
  - "beer at one-half the liquor store price"
  - "wine $3.00 per bottle"
  - "12 dozen beer for $110"
  - "50 litres of beer for $100"
- offer price discounts, such as "second batch at half price" or "make two batches, get the third one free," or volume discounts for making more than one batch at a time.

Where You May Advertise

You may advertise your establishment in newspapers, magazines and periodicals, or on television, radio or the Internet. You can put up signs, and print pamphlets or brochures, including graphics and pictures of your store.

Your signs may display:

- The name of your store.
- Your liquor licence category.
- A person making liquor in your UBrew / UVin.
- The products and services you sell.

Promotions and Discounts

You may choose the prices for your products and may place products on sale and advertise the sale, including the price, provided you conform to the restrictions outlined above.

You may not market your products and services in a way that would promote the illegal use of your products by your customers. For example, you may not promote the consumption of wine or beer produced at your store at an event, such as a wedding, held in a public place (because it is illegal to serve liquor in a public place without a special occasion licence), or inside a licensed establishment (because all licensed establishments must buy their liquor from the Liquor Distribution Branch).

You may offer, using newsletters or similar forms of communication with known customers:

- discount programs for frequent users ("make five batches, get one free," for example)
- "company money" that can be reimbursed against future purchases
- volume discounts to individuals or groups who make more than one batch at a time
- contests where you award either free product or free services (the prize may not consist of both product and service, as this would constitute giving liquor as a prize), provided there is no contest entry fee.

Bulk mailings describing these promotions or advertising them in the media are not permitted.

Signs

Any signs, including signs bearing the name of your store, are considered to be advertisements and must comply with advertising terms and conditions. All signs, whether inside or outside your store, must be approved by the branch before you put them up.

Inspections

Why We Inspect Licensed Establishments

Branch liquor inspectors conduct regular, unannounced inspections of licensed establishments to make sure licensees are following the Act and Regulations and their licence terms and conditions, and to make sure there are timely consequences when they don't.

In addition, a liquor inspector may conduct an inspection:

- in response to a complaint from a member of the public, another licensee, a local government/First Nation, police or any other agency, or
- to follow-up on a Licensed Premises Check (LPC) issued by a police officer.

Entry of Liquor Inspectors and Police Officers

You must give liquor inspectors and police officers immediate access to all areas of your UBrew/UVin on request. It is a serious contravention to refuse or delay providing access to an inspector or police officer.

Producing Documents and Records

You must allow the general manager (or a designated person such as a liquor inspector) to inspect documents and records associated with your store, including:

- product sales records
- purchase and disposal records
- sales records, invoices and purchase receipts
- lease and management contracts related to your licensed establishment
- employee records
- any court orders or judgements against you.

Enforcement

Contravention Notice

If a liquor inspector believes that you or your staff are contravening the Act, its Regulations or the terms and conditions of your licence, the inspector must issue a Contravention Notice to you, that identifies the alleged contravention.

The inspector will then review the evidence and circumstances of the contravention in conjunction with the Liquor Control and Licensing Branch's file for your establishment. Based on that review, the inspector will decide whether to recommend that the general manager take enforcement action against you, as the licensee.

If the inspector does not recommend enforcement action, he or she will keep the Contravention Notice in the branch's file on your establishment, and may require you to attend a Compliance Meeting.

Compliance Meeting

A compliance meeting is a meeting between you and the inspector – and possibly others, such as members of your staff, local police, government and fire officials.

The purpose of the meeting is to promote voluntary compliance with the liquor licensing rules and to assist you in anticipating, and creating solutions for, potential problems. The inspector will prepare a written record of what is discussed including any procedures you intend to put in place to deal with the problem, and when they will come into effect. Once you and the inspector have signed it, you will receive a copy, and a second copy will be placed in your establishment's file.

Compliance meetings are not a required step before the branch takes enforcement action.

Please Note:

As a licensee, you are legally responsible for understanding and complying with the requirements of the Act, its Regulations and the terms and conditions of your licence, and for any contraventions committed against your licence.

You are also responsible for making sure your employees follow B.C.'s liquor laws and the terms and conditions of your licence, even when you are not on site.

As the licensee, you are responsible for any contraventions against your licence.

Notice of Enforcement Action

If a liquor inspector recommends enforcement action, and his or her regional manager concurs, you will receive a Notice of Enforcement Action. The Notice of Enforcement Action will include the details of the allegation, the proposed penalty, why the branch is recommending enforcement action, and the reasons for recommending this particular penalty.

You have the option of disputing the branch's allegations at an enforcement hearing or signing a waiver notice.

If enforcement action is pending and you have applied for a change to your licence – a temporary extension to your hours, for example – the general manager may decide to wait for the outcome of the enforcement action before making a decision on the change request.

Waiver

Signing a waiver means that you

- agree that the contravention occurred,
- accept the penalty proposed in the Notice of Enforcement Action,
- waive the opportunity for an enforcement hearing, and
- agree that the contravention and penalty will form part of the compliance history of the licence and the licensee.

You may sign a waiver at any time prior to the hearing.

Pre-hearing Conference

After receiving the Notice of Enforcement Action, you will be asked to participate in a pre-hearing telephone conference conducted by the branch's registrar of enforcement hearings. At the pre-hearing conference, the registrar will:

- obtain your response to the allegations and determine if an enforcement hearing is required
- clarify the issues that will be addressed at the enforcement hearing
- identify and discuss the evidence that both you and the branch plan to present at the enforcement hearing (this includes the the names of any witnesses who will testify on your or the branch's behalf)
- arrange for the branch and you to exchange copies of any documents or other evidence that will be introduced at the hearing

- explain the enforcement hearing process
- set a date for the enforcement hearing.

If you do not participate in the pre-hearing conference, you may lose the opportunity for an oral hearing, and the general manager may make a decision based on the written submissions only.

Enforcement Hearing

Enforcement hearings may be conducted in-person, via teleconference, written submission, or any combination of these.

At an enforcement hearing, an adjudicator, who is a delegate of the general manager, will consider the evidence and argument presented by you and the branch. The adjudicator will decide whether the alleged contravention(s) occurred and what enforcement action, if any, is warranted. The adjudicator issues a written decision several weeks after the hearing.

NOTE:
You may represent yourself at a hearing, be represented by a lawyer or you may be represented by someone with written authority to act on your behalf.

Possible Enforcement Action

If the adjudicator decides the contravention occurred, they may

- suspend the liquor licence for a period of time
- impose a monetary penalty
- cancel a liquor licence
- impose, rescind or amend the terms and conditions of a licence, and
- order a licensee to transfer a licence.

If the adjudicator finds that either a licence suspension or monetary penalty is warranted, they may not impose a penalty less than the minimums set out in Schedule 4 of the Regulation. They may impose higher penalties when it is in the public interest to do so. They are not bound by the penalties proposed in the Notice of Enforcement Action.

The type of enforcement action imposed will depend on a number of factors, including the nature of the contravention, the circumstances of the contravention, your establishment's compliance history, and your compliance history as a licensee.

Any enforcement action imposed will form part of the compliance history of the licence and the licensee.

The general manager may:

- Add a term and condition to your licence, or rescind or amend an existing term and condition.
- Require you to pay a monetary penalty in accordance with the penalty schedule.
- Suspend your licence in accordance with the penalty schedule.
- Cancel all or part of your licence.
- Order you to transfer your licence, within a certain period, to a person who is at arm's length from you.

Serving Customers While Under Suspension

If the enforcement process results in your licence being suspended, you may open your store to allow existing customers to bottle their product (otherwise it may spoil), but you may not let anyone start a new batch. Failure to abide by your suspension, including allowing branch officials to post suspension signs, is a serious contravention that could lead to an extended licence suspension, cancellation or transfer of your liquor licence.

Judicial Review

If you are dissatisfied with an enforcement hearing decision, you may apply to the B.C. Supreme Court for a judicial review.

APPENDIX 1
Penalty Schedule
Schedule 4
Enforcement Actions

Interpretation

1 (1) For the purposes of this Schedule,

(a) a contravention is of the same type as another contravention if each contravention is described by the same Item of this Schedule, and

(b) a contravention by a licensee is

(i) a first contravention if the contravention was committed at or in respect of an establishment and the licensee has not committed a contravention of the same type at or in respect of that establishment within the 12 month period preceding the commission of the contravention,

(ii) a second contravention if the contravention was committed at or in respect of an establishment and the licensee has committed one contravention of the same type at or in respect of that establishment within the 12 month period preceding the commission of the contravention, and

(iii) a subsequent contravention if the contravention was committed at or in respect of an establishment and the licensee has committed a second contravention of the same type at or in respect of that establishment within the 12 month period preceding the commission of the contravention.

(2) In section 20 (1) (c.1) of the Act and in Item 13 of this Schedule, "**reasonable measures**" means, in respect of a licensee, measures that are

(a) reasonable in the circumstances, and

(b) reasonably within the capacity of the licensee to effect.

Item	Contravention	Period of Suspension (Days)			Monetary Penalty
		First Contravention	Second Contravention	Subsequent Contravention	
OPERATING OUTSIDE OF LICENCE PURPOSE					
1	Operation of a licensed establishment in a manner that is contrary to the primary purpose of the licence	10 - 15	20 - 30	30 - 60	$7 500 - $10 000
MINORS					
2	A breach of section 33 of the Act [*Selling liquor to minors*]	10 - 15	20 - 30	30 - 60	$7 500 - $10 000
3	A breach of section 35 of the Act [*Minors on licensed premises*]	4 - 7	10 - 14	18 - 20	$5 000 - $7 500
4	Rescinded (February 2007) ~~*A breach of section 46(2) of the regulations (Failure to request identification from person appearing to be under 25)*~~	—	—	—	—
GAMBLING					
5	A breach of section 36(2)(a) of the Act by authorizing or permitting gambling in the licensed establishment	4 - 7	10 - 14	18 - 20	$5 000 - $7 000
6	A breach of section 36(2)(c) of the Act by authorizing or permitting a device used for gambling to be placed, kept or maintained in the licensed establishment	10 - 15	20 - 30	30 - 60	$7 500 - $10 000
DISORDERLY OR RIOTOUS CONDUCT					
7	A breach of section 36(2)(a) of the Act by authorizing or permitting, in the licensed establishment, drunkenness or violent, quarrelsome, riotous or disorderly conduct	10 - 15	20 - 30	30 - 60	$7 500 - $10 000
8	A breach of section 36(2)(b) of the Act by authorizing or permitting, in the licensed establishment, any unlawful activities or conduct	10 - 15	20 - 30	30 - 60	$7 500 - $10 000
INTOXICATED PERSONS					
9	A breach of section 43(1) of the Act by selling or giving liquor to an intoxicated person or a person apparently under the influence of liquor	4 - 7	10 - 14	18 - 20	$5 000 - $7 000
10	A breach of section 43(2)(a) of the Act by permitting a person to become intoxicated	4 - 7	10 - 14	18 - 20	$5 000 - $7 000
11	A breach of section 43(2)(b) of the Act by permitting an intoxicated person to remain in that part of the licensed establishment where liquor is sold or served	4 - 7	10 - 14	18 - 20	$5 000 - $7 000

Item	Contravention	Period of Suspension (Days)			Monetary Penalty
		First Contravention	Second Contravention	Subsequent Contravention	
WEAPONS					
12	A breach of section 47 of the Act [*Licensee's duty - dangerous weapons*]	4 - 7	10 - 14	18 - 20	$5 000 - $7 000
LICENSEE RESPONSIBLE FOR DISTURBANCE OF PERSONS IN THE VICINITY					
13	A failure to take reasonable measures to ensure that the operation of the licensed establishment is not contrary to the public interest and does not disturb persons in the vicinity of the establishment	10 - 15	20 - 30	30 - 60	$7 500 - $10 000
OVERCROWDING					
14	Permitting more persons in the licensed establishment than the patron or person capacity set by the general manager and the number of persons in the licensed establishment in less than or equal to the occupant load	1 - 3	3 - 6	6 - 9	$1 000 - $3 000
15	Permitting more persons in the licensed establishment than the patron or person capacity set by the general manager and the number of persons in the licensed establishment is more than the occupant load	4 - 7	10 - 14	18 - 20	$5 000 - $7 000
ILLICIT LIQUOR					
16	A breach of section 38 of the Act [*Unlawful sale of liquor*]	10 - 15	20 - 30	30 - 60	$7 500 - $10 000

LIQUOR SERVICE					
27	A breach of section 42(3) of this regulation as a result of an employee or the licensee consuming liquor while working on the licensed premises	1 - 3	3 - 6	6 - 9	$1 000 - $3 000
PRODUCTION OF RECORDS					
31	A breach of section 73 (1) (a), 73 (2) (a) or 73 (2) (b) of the Act [*Failure to produce a document or record or thing*]	10 - 15	20 - 30	30 - 60	$7 500 - $ 10 000

Item	Contravention	Period of Suspension (Days)			Monetary Penalty
		First Contravention	Second Contravention	Subsequent Contravention	
ADVERTISING					
32	A breach of section 49 of the Act [*Display of signs*]	1 - 3	3 - 6	6 - 9	$1 000 - $ 3000
33	A breach of section 51.1 of the Act [*Advertising liquor*] or section 58 of this regulation	1 - 3	3 - 6	6 - 9	$1 000 - $3 000
ENTERTAINMENT					
34	Permitting in the licensed establishment entertainment by one or more exotic dancers or strippers that is prohibited or restricted under section 50 of the Act	4 - 7	10 - 14	18 - 20	$5 000 - $ 7 000
35	Permitting in the licensed establishment any other entertainment that is prohibited or restricted under section 50 of the Act	1 - 3	3 - 6	6 - 9	$1 000 - $ 3000
LICENSING CONTRAVENTION					
36	A breach of section 15 (2) of the Act [*Failure to disclose a material fact or false or misleading statement in application*]	10 - 15	20 - 30	30 - 60	$7 500 - $10 000
37	A breach of section 18 of the Act [*Tied houses*] by failing to disclose to the general manager the information that must be disclosed under that section	10 - 15	20 - 30	30 - 60	$7 500 - $10 000
38	A breach of section 19 (3) of the Act by transferring shares of the licensee's capital stock without first receiving the general manager's approval for that transfer	1 - 3	3 - 6	6 - 9	$1 000 - $3 000
39	A breach of section 7 of this regulation by making structural alteration of or change to the size of any area of the licensed establishment without first receiving the written permission of the general manager	1 - 3	3 - 6	6 - 9	$1 000 - $3 000
INDUCEMENTS					
40	A breach by the licensee or an employee of the licensee of section 45 of the Act [*Licensee not to give or accept gifts for promoting liquor*]	10 - 15	20 - 30	30 - 60	$7 500 - $10 000

Item	Contravention	Period of Suspension (Days)			Monetary Penalty
		First Contravention	Second Contravention	Subsequent Contravention	
U-BREW/U-VIN					
41	A breach of section 23 of this regulation by failing to ensure that the customer performs the listed tasks	4 - 7	10 - 14	18 - 20	$5 000 - $7 000
42	A breach of section 22 [*Payment, acknowledgment and invoice required*], 24 [*Licensee or employee production*], 25 [*Storage requirements*], 26 [*No consumption other than tasting*], 27 [*Customer required to bottle own product*], 28 [*Removal of finished product required*], 30 [*Minors*], 31 [*Record keeping and reporting requirements*], 32 [*Advertisements*] or 33 [*Hours of operation*] of this regulation	1 - 3	3 - 6	6 - 9	$1 000 - $ 3000
43	A breach of section 29 of this regulation by failing to ensure that beer, wine or cider is not kept, offered or produced for sale at a U-Brew or U-Vin	10 - 15	20 - 30	30 - 60	$7 500 - $10 000
DEFAULT IN MONETARY PENALTIES					
44	A breach of section 20 (2.6) of the Act [*Failure to pay monetary penalty within 30 days or period specified by the general manager*]	10 - 15	20 - 30	30 - 60	
OTHER					
45	A breach of section 20 of the Act by permitting the sale, service or consumption of liquor while the licensee's licence is under suspension, or A breach of section 67 (3) of the Act, by (a) obstruction or attempting to obstruct an entry or search by a peace officer under section 67 of the Act, or (b) refusing or failing to admit immediately a peace officer demanding entry anywhere under section 67 of the Act, or A breach of section 73 (1) (b) (ii) or (iii) of the Act by neglecting or refusing to allow storage premises or an establishment licensed under the Act to be inspected, or A breach of section 73 (2) (c) of the Act by neglecting or refusing to allow premises to be inspected	If the licence is not cancelled or transferred in accordance with section 69 of this regulation, at least 15 days			

Item	Contravention	Period of Suspension (Days)			Monetary Penalty
		First Contravention	Second Contravention	Subsequent Contravention	
GENERAL					
46	Any breach of any provision of the Act, the regulations or the terms and conditions of the licence not specifically referred to in Items 1 to 45	1 - 3	3 - 6	6 - 9	$1 000 - $3 000

Appendix 2:

Making Changes to Your Licence

Changes that require approval from the general manager

Permanent change

You must apply for a permanent change if you want to:

- change the name of your business
- change your name as it appears on the licence
- change anyone or any company – owners, partners, shareholders, corporations or holding companies
- transfer shares either externally to new shareholders, directors or officers, or internally between current shareholders, if you are a private corporation
- add a receiver or executor

Transfer of location

You must apply for a transfer of location if you want to:

- re-locate your business.

Third-party or resident manager change

You must apply for a third-party operator or resident manager change if you want to:

- change (or add) a third-party lessee or management firm operating within your licensed establishment
- change your resident manager, if you are a non-resident private corporation, or not involved in the day-to-day operations.

Application forms, documentation and other required approvals

The application form, documentation and approvals you will need depend on the type of change you are asking for. For example:

- To change or add a third-party lessee or management firm, you will need an Application for a Third-Party Operator or Resident Manager, and to supply a range of company documents and a completed criminal record search form for each new person.

- To transfer shares, you will need an application for a *Permanent Change to a Liquor Licence*, and all shareholders will need to agree to a criminal record check.

The individual application forms explain the documentation and/or approvals required for each type of change. The Fee Schedule for Licence Changes lists the fee charged for each type of change.

Application Forms:
Forms are available on-line...
www.pssg.gov.bc.ca/lclb
or call our toll free line...
1 866 209 2111
or e-mail us...
lclb.lclb@gov.bc.ca

Criminal record checks

Some changes will require that you consent to a criminal record check. To do so, you must complete both the Personal History Summary and Consent to Criminal Record Search form and the RCMP's Consent for Disclosure of Criminal Record Information.

Applicants who have applied for a liquor licence and consented to a criminal record search within the previous 12 months are exempt, unless requested to consent to another search by the general manager.

Applicants living outside of Canada, refugees and permanents residents who have been in Canada for less than five years and anyone who has been charged or convicted of a crime must also provide a statutory declaration - signed by a lawyer, Notary Public, or Commissioner for Taking Affidavits — stating either that they have not been charged or convicted of a crime, or providing details of any past charges, convictions or sentences. In addition, permanent residents who have been in Canada less than five years must attach a copy of their "Record of Landing" (Form IMM1000, Permanent Resident Card or equivalent documentation), as provided by Citizenship and Immigration Canada when they entered the country.

Once we have the required documents, we will send them on to the RCMP. They will check the person's name and birth date and other information against criminal records across Canada, and report back to us with the final results:

- If the search reveals no criminal record, we will continue to process your change request.

- If the RCMP are unable to confirm the information you provided on the statutory declaration, and if the search reveals a *possible* relevant criminal record, we will ask you to go to the local police or RCMP station to provide fingerprints. (The police may charge a fee for this service.) Specially trained analysts will compare these fingerprints to the prints associated with the criminal record.

Even if it turns out that an applicant does have a criminal record, however, it does not mean we will automatically turn down the application. We will look carefully at the circumstances of the individual case – the severity of the crime and when it was committed, for example, and what the applicant has done to change his or her behaviour since then – and how the type of crime committed relates to the responsibilities that go with holding a liquor licence.

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